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EXAMINER

KIDWELL, MICHELLE M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 11/29/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/458,077

Applicant(s)

SHIMOE ET AL.

Examiner

Michele M. Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant claims a core further comprising super-absorptive polymer particles distributed substantially only in the central region. This limitation is not supported by the disclosure.

Claims 11 – 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With reference to claim 11, it is unclear how portions of the core can be sandwiched between the bottom and the lower surface. If the indentation is formed on an upper surface and ends at a bottom, which would be the lowest point of the indentation, it is unclear how the core, from which the indentation is formed, can be sandwiched between the lowest point of the indentation, which would essentially be the bottom. Clarification is required.

Claims 16 and 20 recite the limitation "the vicinity" in line 1. There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Megison et al. (US 4,781,710), and further in view of Toyoshima et al. (US 5,891,118).

With reference to claim 1, Megison et al. (hereinafter "Megison") discloses an absorbent article comprising a liquid permeable topsheet (16) and a liquid-absorbent core wherein the core contains a fibrous component and a density of the fibrous component in the indented regions is equal to or lower than in the central and side regions as set forth in col. 10, lines 20 – 38.

The difference between Megison and claim 6 is the provision that the indented regions are arranged along two lines extending longitudinally along transversely opposite sides of the core, the lines spaced apart from each other by a distance gradually increasing from a minimum at a longitudinally middle point thereof to a maximum at longitudinally opposite ends thereof, the indented regions longitudinally dividing the core into a central region confined between the indented regions and two

Art Unit: 3761

side regions each located between one of the indented regions and the respective one of the transversely opposite sides of the core.

It would have been obvious to one of ordinary skill in the art to modify the indented regions of Megison because when the indented regions are arranged along transversely opposite sides of the core, the regions serve to protect against side leakage and prevent bunching and twisting of the article.

As to claim 7, see figure 2.

Claims 8 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Megison et al., and further in view of Toyoshima et al. (US 5,891,118).

The difference between Megison and claim 8 is the provision that the indented regions intermittently extend along the lines.

Toyoshima et al. (hereinafter "Toyoshima") teaches an absorbent article wherein the indented regions extend intermittently along the lines as set forth in figure 7.

It would have been obvious to one of ordinary skill in the art to modify the indented regions of Megison because this arrangement provides increased side leakage protection as taught by Toyoshima in col. 9, lines 35 – 52.

With reference to claims 9 – 10, 16 – 17 and 20 – 21, the absence of critical teaching and/or unexpected result, leads the examiner to believe that the claimed limitations would be an obvious matter of design choice that does not patentably distinguish the claimed invention from the prior art invention.

With reference to claim 11, as best understood by the examiner, see Toyoshima, figures 2 – 6.

Art Unit: 3761

As to claim 12, see Toyoshima, figures 10a – 10c.

With respect to claim 13, see Toyoshima, figure 7.

With reference to claims 14 and 15, see Toyoshima, figure 1.

As to claims 18 and 19, see Toyoshima, figure 1 – 2 and 7.

Regarding claim 22, see Megison, col. 8, lines 17 – 19.

With reference to claim 23, see Toyoshima, col. 3, lines 50 – 57.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3761

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell

Michele Kidwell
November 19, 2001



John G. Weiss
Supervisory Patent Examiner
Group 3700